UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

VIA ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

Victor Arciga, Fleet and Facility Maintenance Director
Sysco Food Service
Victor.arciga@sysco.com

Re: Finding of Violation
Sysco Food Service
Des Plaines, Illinois

Dear Victor Arciga:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to Sysco Food Service ("Sysco" or "you") under Section 113(a)(3) of the Clean Air Act, 42 U.S.C. § 7413(a). We find that you are violating certain provisions of the Chemical Accident Prevention Provisions (CAPP), codified at 40 C.F.R. Part 68, as well as Section 112(r)(7)(E) of the Clean Air Act, 42 U.S.C. § 7412(r)(7)(E), at your Des Plaines, Illinois facility.

Section 113(a)(3) of the Clean Air Act, U.S.C. § 7412(a)(3), gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us information responsive to the FOV prior to the conference date.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Natalia Vazquez. You may call her at (312) 353-8314 or email her at vazquez.natalia@epa.gov to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

SARAH MARSHALL

Digitally signed by SARAH MARSHALL
Date: 2022.09.27 13:28:15 -05'00'

Sarah Marshall
Supervisor, Air Enforcement and Compliance Assurance Section MI/WI

Enclosure

cc: Kent Mohr, Manager
Compliance Section
Bureau of Air
Illinois Environmental Protection Agency
Kent.Mohr@Illinois.gov

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:	)	
	)	
Sysco Food Service	)	**FINDING OF VIOLATION**
Des Plaines, Illinois	)	
	)	**EPA-5-22-*IL-20***
Proceedings Pursuant to	)	
the Clean Air Act,	)	
42 U.S.C. §§ 7401 et seq.	)	
	)	

FINDING OF VIOLATION

The U.S. Environmental Protection Agency finds that Sysco Food Service (Sysco) is violating Section 112(r)(7)(E) of the Clean Air Act (The Act), 42 U.S.C. § 7412(r)(7)(E), and certain regulatory provisions set forth in the Chemical Accident Prevention Provisions (CAPP), codified at 40 C.F.R. Part 68. The statutory and regulatory authority, as well as a description of the specific violations, are set forth below:

Regulatory Authority

A. Clean Air Act Subsection 112(r)

1. Section 112(r)(1) of the Act, 42 U.S.C. § 7412(r)(1), provides that it shall be the objective of the regulations and programs authorized under this subsection to prevent the accidental release and to minimize the consequences of any such release of any substance listed pursuant to Section 112(r)(3), or any other extremely hazardous substance.

2. Section 112(r)(3) of the Act, 42 U.S.C. § 7412(r)(3), provides that the Administrator shall promulgate, not later than 24 months after November 15, 1990, an initial list of 100 substances which, in the case of an accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment.

3. Section 112(r)(7)(A) of the Act, 42 U.S.C. § 7412(r)(7)(A), provides that in order to prevent accidental releases of regulated substances, the Administrator is authorized to promulgate release prevention, detection, and correction requirements which may include monitoring, record-keeping, reporting, training, vapor recovery, secondary containment, and other design, equipment, work practice, and operational requirements.

4. Section 112(r)(7)(B)(i) of the Act, 42 U.S.C. § 7412(r)(7)(B)(i), provides that within 3 years after November 15, 1990, the Administrator shall promulgate reasonable regulations and appropriate guidance to provide, to the greatest extent practicable, for the prevention and detection of accidental releases of regulated substances and for response to such releases by the owners or operators of the sources of such releases.

5. Section 112(r)(7)(B)(ii) of the Act, 42 U.S.C. § 7412(r)(7)(B)(ii), provides that the regulations under this subparagraph shall require the owner or operator of stationary sources at which a regulated substance is present in more than a threshold quantity to prepare and implement a Risk Management Plan (RMP) to detect and prevent or minimize accidental releases of such substances from the stationary source, and to provide a prompt emergency response to any such releases in order to protect human health and the environment.

6. Pursuant to Section 112(r) of the Act, 42 U.S.C. § 7412(r), the Administrator initially promulgated a list of regulated substances, with threshold quantities for applicability, at 59 Fed. Reg. 4478 (January 31, 1994), which is codified, as amended, at 40 C.F.R. § 68.130.

7. Pursuant to Section 112(r) of the Act, 42 U.S.C. § 7412(r), the Administrator promulgated "Accidental Release Prevention Requirements: Risk Management Programs Under Clean Air Act Section 112(r)(7)," 61 Fed. Reg. 31668 (June 20, 1996), which is codified, as amended, at 40 C.F.R. Part 68: Chemical Accident Prevention Provisions (CAPP).

8. Section 112(r)(7)(E) of the Act, 42 U.S.C. § 7412(r)(7)(E), provides that after the effective date of any regulation or requirement promulgated pursuant to Section 112(r) of the Act, it shall be unlawful for any person to operate any stationary source in violation of such regulation or requirement.

B. Chemical Accident Prevention Provisions

9. Section 68.10(a) of CAPP provides, in part, that the owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as determined under 40 C.F.R. § 68.115, shall comply with the requirements of CAPP no later than the date on which a regulated substance is first present above a threshold quantity in a process.

10. Section 68.3 of CAPP provides that "regulated substance" means any substance listed pursuant to Section 112(r)(3) of the Act at 40 C.F.R. § 68.130.

11. Table 1 at Section 68.130(a)of CAPP lists ammonia (anhydrous) as a regulated toxic substance with a threshold quantity of 10,000 pounds.

12. Section 68.3 of CAPP provides that "process" means "any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities." For purposes of this definition, a single process includes "any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release . . .." A "covered process" means "a process that has a regulated substance present in more than a threshold quantity as determined under 40 C.F.R. § 68.115."

13. Section 68.10(g) of CAPP provides, in part, that a covered process is subject to Program 1 requirements if the distance to a toxic or flammable endpoint for a worst-case release assessment conducted under CAPP subpart B and 40 C.F.R. § 68.25 is less than the distance to any public receptor, as defined in 40 C.F.R. § 68.3.

14. Section 68.10(i) of CAPP provides, in part, that a covered process is subject to Program 3 requirements if the process does not meet the requirements of Program 1 as described in 40 C.F.R. § 68.10(g) and if either of the following conditions is met: the process is in NAICS code 32211, 32411, 32511, 325181, 325188, 325192, 325199, 325211, 325311, or 32532; or the process is subject to the U.S. Occupational Safety and Health Administration (OSHA) process safety management standard, 29 CFR § 1910.119.

15. Section 68.12(a) and (d) of CAPP identify CAPP requirements that the owner or operator of a stationary source with a process subject to Program 3 shall meet, which include, among other provisions, requirements regarding management systems, hazard assessments, prevention requirements, response actions, emergency response programs, and the submittal of a single RMP.

16. Section 68.65(a), (c) and (d) of CAPP provides, in part, that the owner or operator shall complete a compilation of written process safety information (PSI), before conducting any process hazard analysis (PHA). The compilation of written process safety information is to enable the owner or operator and the employees involved in operating the process to identify and understand the hazards posed by those processes involving regulated substances. The process safety information shall include information pertaining to the technology of the process including safe upper and lower limits for such items as temperatures, pressures, flow or compositions; and an evaluation of the consequence of deviation. Additionally, the process safety information shall include information pertaining to the equipment of the process including piping and instrument diagrams (P&ID).

17. Section 68.75(a) and (b) of CAPP provide that the owner or operator shall establish and implement written procedures to manage changes (except for "replacement in kind") to process chemicals, technology, equipment, and procedures; and, changes to stationary sources that affect a covered process. The procedures shall assure that, among other things, the technical basis for the proposed change is addressed prior to any change.

18. Section 68.75(d) of CAPP provides that if a change covered by 40 C.F.R. § 68.75 results in a change in the process safety information required by 40 C.F.R. § 68.65, such information shall be updated accordingly.

19. Section 68.77(a) of CAPP provides that the owner or operator shall perform a pre-startup safety review for modified stationary source when the modification is significant enough to require a change in the process safety information.

20. Section 68.195(b) of CAPP requires the owner or operator to submit a correction to its RMP within a month of a change in the emergency contact information required under 40 C.F.R. § 68.160(b)(6).

Findings

21. Sysco owns and operates a food product distribution facility at 501 S. Wolf Road, Des Plaines, Illinois 60016 (Facility).

22. Sysco's facility uses anhydrous ammonia in its refrigeration system in its food distribution warehouse. The refrigeration system at the Facility contains at least 10,000 pounds of anhydrous ammonia.

23. Sysco's refrigeration system is subject to requirements at 40 C.F.R. Part 68. The Facility falls under Program 3 within CAPP as it has a process that is subject to the OSHA process safety management standard, 29 CFR 1910.119; and the distance to a toxic endpoint for a worst-case release assessment is at least the distance to any public receptor as defined in 40 C.F.R. § 68.3. See 40 CFR § 68.10(i).

24. EPA inspectors completed a CAA 112r inspection at the Facility on September 27 through September 29, 2021.

25. EPA inspectors reviewed Sysco's Process Safety Information including the Safe Upper and Lower Limit and Consequence of Deviations.

26. The Safe Upper and Lower Limit record is meant to outline the safe upper and lower limits for each technical parameter.

27. The Consequence of Deviation is meant to outline the health and safety consequences of deviating from the safe upper and lower limits of each parameter.

28. EPA inspectors reviewed the Facility's Standard Operating Procedures (SOP) of the following equipment: "Compressor RB1 (High Stage)", "Evaporator EV1", "High Pressure Receiver (HPR) vessel, High Temperature Pump Recirculator (HTR) vessel", and "Condenser EC1". Specifically, EPA reviewed Sysco's Safe Upper and Lower Limits and Consequence of Deviation located in its SOPs.

High Pressure Receiver Vessels

a. The SOP did not have safe low pressure identified in safe upper and lower limit and a safety consequence of deviation for low pressure. If low pressure is not a safety concern, Sysco did not include a record of that conclusion.

b. The SOP did not have safe low temperature identified in safe upper and lower limit, even though there is a safety consequence of deviation for low temperature.

c. The SOP did not have safe low level of anhydrous ammonia identified in safe upper and lower limit and a safety consequence of deviation. If low level is not a safety concern, Sysco did not include a record of that conclusion.

d. The SOP did not have a consequence of deviation analysis for high level of anhydrous ammonia, which was included in the safe upper and lower limit.

High Temperature Vessel

e. The SOP did not have safe low pressure identified in safe upper and lower limit and a safety consequence of deviation. If low pressure is not a safety concern, Sysco did not include a record of that conclusion.

f. The SOP did not have safe high temperature identified in safe upper and lower limit, even though there was a safety related consequence of deviation for high temperature.

g. The SOP did not have safe low level of anhydrous ammonia identified in safe upper and lower limit and a consequence of deviation. If low level is not a safety concern, Sysco did not include a record of that conclusion.

h. The SOP did not have a consequence of deviation analysis for high level of anhydrous ammonia, which was included in the safe upper and lower limit.

Compressor

i. The SOP did not have an upper and lower limit identified for discharge temperature. There was no consequence of deviation recorded for low discharge temperature. If low discharge temperature is not a safety concern, Sysco did not include a record of that conclusion.

j. The SOP did not have a consequence of deviation analysis for low discharge pressure, which was included in the safe upper and lower limit.

29. During the September 27-29, 2021, site tour, EPA inspectors observed the anhydrous ammonia loading station in the freezer building. A Sysco employee stated that the anhydrous ammonia loading station was installed 3 to 4 years prior, that is between 2018 and 2017. EPA inspectors asked to see the management of change (MOC) and pre-startup review records related to the installation of the anhydrous ammonia loading station, but facility representatives were not able to locate them.

30. Sysco provided EPA a work proposal for the anhydrous ammonia loading (a.k.a. charging) station dated June 19, 2019.

31. The installation of the anhydrous ammonia loading station is a change to the equipment that is more than a replacement in kind.

32. The P&ID provided during the inspection was dated 8/14/2007, before the addition of the anhydrous ammonia loading station. Sysco did not provide a modified P&ID following the addition of the anhydrous ammonia loading system.

33. During the September 27-29, 2021 inspection, EPA learned that the Facility emergency contact listed in the RMP stopped working at the Facility in February 2021. As of July 11, 2022, no correction has been made to the emergency contact.

Violations

34. Sysco failed to complete the compilation of the PSI that would enable an owner or operator to identify and understand the hazards posed by a process.

    a. Not all parameters (such as temperature, pressure or flow) identified in the Safe Upper and Lower Limit had a corresponding safe upper limit or safe lower limit. 40 C.F.R. 68.65(c)(1)(iv).

    b. Some of the parameters identified in its safe upper and lower limits did not have a corresponding safety related consequence of deviation. 40 C.F.R. § 68.65(c)(1)(v).

    c. Sysco failed to modify its P&ID after the addition of the anhydrous ammonia loading station. 40 C.F.R. § 68.65(d)(1)(ii).

35. Sysco failed to include the installation of the anhydrous ammonia loading station to its management of change. This installation required a change to process safety information, specifically a change to the P&ID. 40 C.F.R. § 65.75 (d).

36. Sysco failed to perform a pre-startup safety review for a modification that is significant enough to require a change in the process safety information. 40 C.F.R. § 68.77(a).

37. Sysco failed to update its emergency contact information within a month of the change of personnel. 40 C.F.R. 69.195(b).

Environmental Impacts of Violations

38. These violations can cause accidental release of anhydrous ammonia.

39. Anhydrous ammonia is corrosive to the skin, eyes, and lungs; exposure to 300 parts per million is immediately dangerous to life and health. Anhydrous ammonia is flammable at concentration of about 15 to 28 percent by volume in air.

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division